

recording the private conversations of others unless such use is authorized by all of the parties engaging in the conversation.

(b) Paragraph (a) of this section shall not apply to operations of any law enforcement officers conducted under lawful authority.

[31 FR 3400, Mar. 4, 1966]

Subpart I—Marketing of Radio-frequency Devices

SOURCE: 35 FR 7898, May 22, 1970, unless otherwise noted.

§ 2.801 Radiofrequency device defined.

As used in this part, a radiofrequency device is any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means. Radiofrequency devices include, but are not limited to:

(a) The various types of radio communication transmitting devices described throughout this chapter.

(b) The incidental, unintentional and intentional radiators defined in part 15 of this chapter.

(c) The industrial, scientific, and medical equipment described in part 18 of this chapter.

(d) Any part or component thereof which in use emits radiofrequency energy by radiation, conduction, or other means.

[35 FR 7898, May 22, 1970, as amended at 54 FR 17711, Apr. 25, 1989]

§ 2.803 Equipment requiring Commission approval.

In the case of a radio frequency device, which, in accordance with the rules in this chapter must be type approved, type accepted, certificated or notified prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any such radio frequency device, unless, prior thereto, such devices shall have been type approved, type accepted, certificated or notified as the case may be: *Provided, however*, That the advertising or display of a device, which has not been granted type approval, type accept-

ance, certification or notification, will not be deemed to be an offer for sale if such advertising contains, and the display is accompanied by, conspicuous notice worded as follows:

This device has not been approved by the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased until the approval of the FCC has been obtained.

This provision does not apply to radio frequency devices that could not be granted an equipment authorization or be legally operated under our current rules. Such devices shall not be advertised or displayed or offered for sale or lease or sold or leased. *Provided further*, That any non-approved device displayed under the terms of the above provision may not be activated or operated.

[48 FR 3620, Jan. 26, 1983]

§ 2.805 Equipment that does not require Commission approval.

In the case of a radio frequency device that, in accordance with the rules in this chapter, does not have to have a grant of equipment authorization issued by the Commission, *e.g.*, a device subject to verification or a Declaration of Conformity, but, nevertheless, must comply with specified technical standards prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purposes of selling or leasing or offering for sale or lease, any such radio frequency device unless, prior thereto, such device complies with the applicable administrative and technical provisions (including verification or Declaration of Conformity of the equipment, where required) specified in the Commission's rules.

[61 FR 31045, June 19, 1996]

§ 2.806 Exemption for a digital device.

(a) Notwithstanding the provisions in § 2.805, the announcement and offer for sale of a digital device, subject to verification under the provisions in part 15 of this chapter, that is in the conceptual, developmental, design or preproduction stage is permitted prior to verification of compliance *Provided* the prospective buyer is advised in

writing at the time of announcement or offer for sale that such equipment is subject to the FCC rules and that such equipment shall comply with the appropriate FCC rules before final delivery to the buyer or to centers of distribution.

(b) Parties responsible for verification of Class A digital devices, as defined in part 15 of this chapter, shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment.

(c) A digital device subject to the provisions of this chapter may be operated prior to a determination of compliance under the following conditions:

(1) Any digital device may be operated for the purpose of compliance testing.

(2) Any digital device may be operated for the purpose of demonstration at a trade show provided there is displayed a conspicuous notice that the device has not been tested for compliance.

(3) Any digital device may be operated at the manufacturer's facilities during developmental, design or preproduction states for evaluation of product performance and determination of customer acceptability.

(4) Where customer acceptability of a Class A digital device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, that device may be operated at the user's site during development, design or preproduction stages for evaluation of product performance and determination of customer acceptability.

(5) For the purpose of paragraphs (c)(3) and (c)(4) of this section, the manufacturer's facilities are considered to include the facilities of the party responsible for compliance with the regulations, the manufacturer, and other entities working under the authorization of the responsible party in connection with the development and

manufacture, but not marketing, of the equipment.

[54 FR 17712, Apr. 25, 1989, as amended at 56 FR 13082, Mar. 29, 1991]

§ 2.807 Statutory exceptions.

As provided by section 302(c) of the Communications Act of 1934, as amended §§ 2.803 and 2.805 shall not be applicable to:

(a) Carriers transporting radiofrequency devices without trading in them.

(b) Radiofrequency devices manufactured solely for export.

(c) The manufacture, assembly, or installation of radiofrequency devices for its own use by a public utility engaged in providing electric service: *Provided, however,* That no such device shall be operated if it causes harmful interference to radio communications.

(d) Radiofrequency devices for use by the Government of the United States or any agency thereof: *Provided, however,* That this exception shall not be applicable to any device after it has been disposed of by such Government or agency.

§ 2.809 Exemption for ISM equipment.

(a) The announcement and offer for sale of ISM equipment which is subject to the provisions of part 18 of this chapter, and which is in the conceptual developmental, design or pre-production stage is permitted prior to determination of compliance, provided the prospective buyer is advised in writing at the time of the announcement or offer for sale that said equipment is subject to FCC Rules and that said equipment shall comply with the appropriate FCC Rules prior to final delivery to the buyer or to the distribution centers.

(b) Manufacturers of nonconsumer ISM equipment shall have the option of insuring compliance with applicable technical specifications of this chapter at each end user's location after installation, provided the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the manufacturer of the equipment.

(c) ISM equipment subject to the provisions of this chapter may be operated prior to determination of compliance

and, when appropriate, obtaining authorization from the Commission under the following circumstances:

(1) While testing for purposes of determining equipment compliance.

(2) When demonstrating equipment at trade shows, provided a conspicuous notice is displayed to specify that the device has not been tested for compliance or approved by the Commission. If the device is offered for sale or lease, the provisions of § 2.809(a) shall apply.

(3) While testing at customer's premises to determine equipment acceptability.

[50 FR 36067, Sept. 5, 1985]

§ 2.811 Transmitters operated under part 73.

Sections 2.803 and 2.805 shall not be applicable to a transmitter operated in any of the Radio Broadcast Services regulated under part 73 of this chapter, provided the conditions set out in part 73 of this chapter for the acceptability of such transmitter for use under licensing are met.

§ 2.813 Transmitters operated in the Instructional Television Fixed Service.

Sections 2.803 and 2.805 shall not be applicable to a transmitter operated in the Instructional Television Fixed Service regulated under part 74 of this chapter provided the conditions in § 74.952 of this chapter for the acceptability of such transmitter for licensing are met.

§ 2.815 External radio frequency power amplifiers.

(a) As used in this part, an external radio frequency power amplifier is any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

(b) After April 27, 1978, no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of oper-

ation on any frequency or frequencies between 24 and 35 MHz.

NOTE: For purposes of this part, the amplifier will be deemed incapable of operation between 24 and 35 MHz if:

(1) The amplifier has no more than 6 decibels of gain between 24 and 26 MHz and between 28 and 35 MHz. (This gain is determined by the ratio of the input RF driving signal (mean power measurement) to the mean RF output power of the amplifier.); and

(2) The amplifier exhibits no amplification (0 decibels of gain) between 26 and 28 MHz.

(c) No person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of type acceptance in accordance with subpart J of this part and subpart C of part 97 or other relevant parts of this chapter. No more than 10 external radio frequency power amplifiers or amplifier kits may be constructed for evaluation purposes in preparation for the submission of an application for a grant of type acceptance.

NOTE: For the purposes of this part, an amplifier will be deemed incapable of operation below 144 MHz if the amplifier is not capable of being easily modified to increase its amplification characteristics below 120 MHz, and either:

(1) The mean output power of the amplifier decreases, as frequency decreases from 144 MHz, to a point where 0 decibels or less gain is exhibited at 120 MHz and below 120 MHz; or

(2) The amplifier is not capable of even short periods of operation below 120 MHz without sustaining permanent damage to its amplification circuitry.

(d) The proscription in paragraph (b) of this section shall not apply to the marketing, as defined in that paragraph, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier fabricated in not more than one unit of the same model in a calendar year by that operator provided the amplifier is for the amateur operator's personal use at his licensed amateur radio station and the

§ 2.901

requirements of §§ 97.75 and 97.76 of this chapter are met.

(e) The proscription in paragraph (c) of this section shall not apply in the marketing, as defined in that paragraph, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier if the amplifier is for the amateur radio operator's personal use at his licensed amateur radio station and the requirements of §§ 97.75 and 97.76 of this chapter are met.

[40 FR 1246, Jan. 7, 1975; 40 FR 6474, Feb. 12, 1975, as amended at 43 FR 12687, Mar. 27, 1978; 43 FR 33725, Aug. 1, 1978; 46 FR 18981, Mar. 27, 1981]

Subpart J—Equipment Authorization Procedures

SOURCE: 39 FR 5919, Feb. 15, 1974, unless otherwise noted.

GENERAL PROVISIONS

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be verified by the manufacturer or importer, be authorized under a Declaration of Conformity, or receive an equipment authorization from the Commission by one of the following procedures: type approval, type acceptance, certification, registration or notification.

(b) The following sections describe the verification procedure, the procedure for a Declaration of Conformity, and the procedures to be followed in obtaining type approval, type acceptance, certification or notification from

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the Commission and the conditions attendant to such a grant.

[61 FR 31045, June 19, 1996]

§ 2.902 Verification.

(a) Verification is a procedure where the manufacturer makes measurements or takes the necessary steps to insure that the equipment complies with the appropriate technical standards. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested by the Commission pursuant to § 2.957, of this part.

(b) Verification attaches to all items subsequently marketed by the manufacturer or importer which are identical as defined in § 2.908 to the sample tested and found acceptable by the manufacturer.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[46 FR 23249, Apr. 24, 1981]

§ 2.903 Type approval.

(a) Type approval is an equipment authorization issued by the Commission based on examination and measurement of one or more sample units by the Commission at its laboratory.

(b) Type approval attaches to all units subsequently marketed by the grantee which are identical (See § 2.908) in all respects to the sample tested by the Commission or include only changes authorized by the Commission pursuant to § 2.967.

[39 FR 5919, Feb. 15, 1974; 39 FR 8617, Mar. 6, 1974, as amended at 39 FR 27802, Aug. 1, 1974]

§ 2.904 Notification.

(a) Notification is an equipment authorization issued by the Commission whereby the applicant makes measurements to determine that the equipment complies with the appropriate technical standards and reports that such measurements have been made and demonstrate the necessary compliance. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested by the Commission pursuant to § 2.936, § 2.943 or § 2.945.